

The Higher Education Relief Opportunities for Students Act would waive or modify any provisions applicable to federal student financial aid programs in order to assist students who are honorably serving in the Persian Gulf. These young men and women are risking their lives today to protect our nation's freedom and liberty. This bill will ensure that those members of our Armed Services who have put their studies on hold are not placed in a worse financial position as a result of their service to our nation. This is the least we can do.

In keeping with this objective, this bill will assure that administrative requirements for these armed service members are minimized. Not only will this bill prevent any financial burden that these troops may otherwise experience as a result of serving our country, but by extension will serve to facilitate their transition into and out of active service.

In addition to protecting students who today find themselves defending our nation, one of the provisions in the bill grants institutions of higher education, eligible lenders, and guaranty agencies located in any area declared a disaster temporary relief from infeasible and unreasonable requirements.

We must make sure that all of our students are protected against any burden they may face as a result of the current war. I am proud to support of H.R. 1412, the Higher Education Relief Opportunities for Students Act of 2003 and strongly urge my colleagues to do the same.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise in support of H.R. 1412.

I support H.R. 1412 because the Higher Education Relief Opportunities for Students Act of 2003 ensures that the brave young men and women of our armed services will not have their educations compromised when they answer the call to active duty.

H.R. 1412 grants the Secretary of Education the discretion to provide financial aid relief, tuition refunds, or credits to members of our Armed Forces when they respond to military operations or national emergencies.

When enlisted men and women, who are also students at colleges and universities, are called to active duty, H.R. 1412 will allow the Secretary of Education to grant waivers and statutory exceptions to protect their enrollment and financial aid status.

It will also empower the Secretary of Education with the discretion to grant a full tuition refund to members of our Armed Services who are called to active duty.

This discretion will empower the Secretary to drastically reduce the likelihood that enlisted men's and women's educations will be jeopardized by inadvertent, technical violations or defaults when they are called to service. It also ensures that members of our Armed Forces do not forfeit their tuition payments when they answer the call to service.

Hundreds of thousands of young men and women have been called to active duty in our Army, Navy, Air Force, Marine Corps, and Coast Guard.

These heroes put the safety of every American citizen before themselves. They risk their lives, and their educations, so that we can be safe.

H.R. 1412 protects the members of our Armed Forces. It ensures that they will not be in a worse position financially or in their education as a result of their status as students and soldiers.

I support H.R. 1412, Madam Speaker, because we must support the members of our Armed Forces in every way that we can, including in their educations.

Mr. HOLT. Madam Speaker, as our nation is at war in the Persian Gulf, many men and women who serve in our nation's armed forces have been called up to active duty, including many college and university students.

Many of these students participate in federal financial aid programs, and in order to ensure the utmost flexibility during the time that they are engaged in military service, it is essential that the Department of Education be given extended waiver authority to accommodate the needs of our troops.

This is why I support H.R. 1412 Higher Education Relief Opportunities for Students (HEROES) Act of 2003.

The bill will extend the waive authority granted to the Secretary of Education to allow him to provide the appropriate assistance and flexibility to our men and women in uniform as they transfer in and out of postsecondary education during a time of war.

The extended waiver authority provided for in the HEROES bill addresses the need to assist students who are being asked to disrupt their lives in the defense of the freedoms we all hold so precious.

It will also allow the Secretary to address events now unforeseen. It also urges all postsecondary institutions to provide a full refund of tuition, fees and other charges to students who are members of the Armed Forces or are serving on active duty, including the Reserves and National Guard.

What a positive message it would send to the hundreds of thousands of American men and women in uniform currently risking their lives to help them with their student loans. Recall the fine, positive effect of the GI education bills.

Our men and women deserve our help. As the brave men and women of the United States are engaged in this difficult and dangerous war we should limit the negative impacts on them and their families here at home.

I ask my colleagues to support H.R. 1412 Higher Education Relief Opportunities for Students Act.

Mr. EMANUEL. Madam Speaker. I rise today in support of H.R. 1412, the Higher Education Relief Opportunities for Students Act. This is timely, essential legislation which ensures that those brave men and women who make enormous sacrifices for our nation do not forfeit their right to an affordable and accessible education.

Members of the armed forces often spend considerable time away from their families, stall other career and educational goals, and, most significantly, expose themselves to the risk of serious injury or death. These individuals and their families deserve our greatest respect, and certainly deserve the assurance that they will not be unfairly penalized for their time spent in military service.

The promise of higher education, and the availability of federal financial assistance to make this opportunity a reality, represent key components of the American experience. It is only right that we ensure access to higher education for those who work to protect the values and privileges that we enjoy as Americans.

I applaud Congressman KLINE and the other Members of the Committee on Education and

Workforce for introducing this critical legislation and bringing it to the floor today. It is a symbol of support for the brave men and women involved in Operation Iraqi Freedom and for all of those who selflessly devote their lives to protecting our nation and our freedom.

Mr. KLINE. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentleman from Minnesota (Mr. KLINE) that the House suspend the rules and pass the bill, H.R. 1412.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. KLINE. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## BUSINESS CHECKING FREEDOM ACT OF 2003

Mr. BACHUS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 758) to allow all businesses to make up to 24 transfers each month from interest-bearing transaction accounts to other transaction accounts, to require the payment of interest on reserves held for depository institutions at federal reserve banks, and for other purposes, as amended.

The Clerk read as follows:

H.R. 758

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Business Checking Freedom Act of 2003".*

### SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.

*(a) Section 2 of Public Law 93-100 (12 U.S.C. 1832) is amended—*

*(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and*

*(2) by inserting after subsection (a) the following:*

*"(b) Notwithstanding any other provision of law, any depository institution may permit the owner of any deposit or account which is a deposit or account on which interest or dividends are paid and is not a deposit or account described in subsection (a)(2) to make up to 24 transfers per month (or such greater number as the Board of Governors of the Federal Reserve System may determine by rule or order), for any purpose, to another account of the owner in the same institution. An account offered pursuant to this subsection shall be considered a transaction account for purposes of section 19 of the Federal Reserve Act unless the Board of Governors of the Federal Reserve System determines otherwise."*

*(b) Effective at the end of the 2-year period beginning on the date of the enactment of this Act, section 2 of Public Law 93-100 (12 U.S.C. 1832) is amended—*

*(1) in subsection (a)(1), by striking "but subject to paragraph (2)";*

(2) by striking paragraph (2) of subsection (a) and inserting the following new paragraph:

“(2) No provision of this section may be construed as conferring the authority to offer demand deposit accounts to any institution that is prohibited by law from offering demand deposit accounts.”; and

(3) in subsection (b) (as added by subsection (a) of this section) by striking “and is not a deposit or account described in subsection (a)(2)”.

### SEC. 3. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED.

(a) REPEAL OF PROHIBITION ON PAYMENT OF INTEREST ON DEMAND DEPOSITS.—

(1) FEDERAL RESERVE ACT.—Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended to read as follows:

“(i) [Repealed]”.

(2) HOME OWNERS' LOAN ACT.—The first sentence of section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking “savings association may not—” and all that follows through “(ii) permit any” and inserting “savings association may not permit any”.

(3) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows:

“(g) [Repealed]”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

### SEC. 4. PAYMENT OF INTEREST ON RESERVES AT FEDERAL RESERVE BANKS.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following new paragraph:

“(12) EARNINGS ON RESERVES.—

“(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

“(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTION.—The Board may prescribe regulations concerning—

“(i) the payment of earnings in accordance with this paragraph;

“(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

“(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal reserve bank by any such entity on behalf of depository institutions.

“(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term ‘depository institution’, in addition to the institutions described in paragraph (1)(A), includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).”.

(b) AUTHORIZATION FOR PASS THROUGH RESERVES FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking “which is not a member bank”.

(c) CONSUMER BANKING COSTS ASSESSMENT.—

(1) IN GENERAL.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(A) by redesignating sections 30 and 31 as sections 31 and 32, respectively; and

(B) by inserting after section 29 the following new section:

### “SEC. 30. SURVEY OF BANK FEES AND SERVICES.

“(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System

shall obtain annually a sample, which is representative by type and size of the institution (including small institutions) and geographic location, of the following retail banking services and products provided by insured depository institutions and insured credit unions (along with related fees and minimum balances):

“(1) Checking and other transaction accounts.

“(2) Negotiable order of withdrawal and savings accounts.

“(3) Automated teller machine transactions.

“(4) Other electronic transactions.

“(b) MINIMUM SURVEY REQUIREMENT.—The annual survey described in subsection (a) shall meet the following minimum requirements:

“(1) CHECKING AND OTHER TRANSACTION ACCOUNTS.—Data on checking and transaction accounts shall include, at a minimum, the following:

“(A) Monthly and annual fees and minimum balances to avoid such fees.

“(B) Minimum opening balances.

“(C) Check processing fees.

“(D) Check printing fees.

“(E) Balance inquiry fees.

“(F) Fees imposed for using a teller or other institution employee.

“(G) Stop payment order fees.

“(H) Nonsufficient fund fees.

“(I) Overdraft fees.

“(J) Deposit items returned fees.

“(K) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

“(2) NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNTS AND SAVINGS ACCOUNTS.—Data on negotiable order of withdrawal accounts and savings accounts shall include, at a minimum, the following:

“(A) Monthly and annual fees and minimum balances to avoid such fees.

“(B) Minimum opening balances.

“(C) Rate at which interest is paid to consumers.

“(D) Check processing fees for negotiable order of withdrawal accounts.

“(E) Fees imposed for using a teller or other institution employee.

“(F) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

“(3) AUTOMATED TELLER TRANSACTIONS.—Data on automated teller machine transactions shall include, at a minimum, the following:

“(A) Monthly and annual fees.

“(B) Card fees.

“(C) Fees charged to customers for withdrawals, deposits, and balance inquiries through institution-owned machines.

“(D) Fees charged to customers for withdrawals, deposits, and balance inquiries through machines owned by others.

“(E) Fees charged to noncustomers for withdrawals, deposits, and balance inquiries through institution-owned machines.

“(F) Point-of-sale transaction fees.

“(4) OTHER ELECTRONIC TRANSACTIONS.—Data on other electronic transactions shall include, at a minimum, the following:

“(A) Wire transfer fees.

“(B) Fees related to payments made over the Internet or through other electronic means.

“(5) OTHER FEES AND CHARGES.—Data on any other fees and charges that the Board of Governors of the Federal Reserve System determines to be appropriate to meet the purposes of this section.

“(6) FEDERAL RESERVE BOARD AUTHORITY.—The Board of Governors of the Federal Reserve System may cease the collection of information with regard to any particular fee or charge specified in this subsection if the Board makes a determination that, on the basis of changing practices in the financial services industry, the collection of such information is no longer necessary to accomplish the purposes of this section.

“(c) ANNUAL REPORT TO CONGRESS REQUIRED.—

“(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsections (a) and (b) of this section and section 136(b)(1) of the Consumer Credit Protection Act.

“(2) CONTENTS OF THE REPORT.—In addition to the data required to be collected pursuant to subsections (a) and (b), each report prepared pursuant to paragraph (1) shall include a description of any discernible trend, in the Nation as a whole, in a representative sample of the 50 States (selected with due regard for regional differences), and in each consolidated metropolitan statistical area (as defined by the Director of the Office of Management and Budget), in the cost and availability of the retail banking services, including those described in subsections (a) and (b) (including related fees and minimum balances), that delineates differences between institutions on the basis of the type of institution and the size of the institution, between large and small institutions of the same type, and any engagement of the institution in multistate activity.

“(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than June 1, 2005, and not later than June 1 of each subsequent year.

“(d) DEFINITIONS.—For purposes of this section, the term ‘insured depository institution’ has the meaning given such term in section 3 of the Federal Deposit Insurance Act, and the term ‘insured credit union’ has the meaning given such term in section 101 of the Federal Credit Union Act.”.

(2) CONFORMING AMENDMENT.—

(A) IN GENERAL.—Paragraph (1) of section 136(b) of the Truth in Lending Act (15 U.S.C. 1646(b)(1)) is amended to read as follows:

“(1) COLLECTION REQUIRED.—The Board shall collect, on a semiannual basis, from a broad sample of financial institutions which offer credit card services, credit card price and availability information including—

“(A) the information required to be disclosed under section 127(c) of this chapter;

“(B) the average total amount of finance charges paid by consumers; and

“(C) the following credit card rates and fees:

“(i) Application fees.

“(ii) Annual percentage rates for cash advances and balance transfers.

“(iii) Maximum annual percentage rate that may be charged when an account is in default.

“(iv) Fees for the use of convenience checks.

“(v) Fees for balance transfers.

“(vi) Fees for foreign currency conversions.”.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on January 1, 2004.

(3) REPEAL OF OTHER REPORT PROVISIONS.—Section 1002 of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and section 108 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 are hereby repealed.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4) (12 U.S.C. 461(b)(4)), by striking subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in subsection (c)(1)(A) (12 U.S.C. 461(c)(1)(A)), by striking “subsection (b)(4)(C)” and inserting “subsection (b)”.

### SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXIBILITY IN SETTING RESERVE REQUIREMENTS.

Section 19(b)(2)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(2)(A)) is amended—

(1) in clause (i), by striking “the ratio of 3 per centum” and inserting “a ratio not greater than 3 percent (and which may be zero)”;

(2) in clause (ii), by striking “and not less than 8 per centum,” and inserting “(and which may be zero)”.

**SEC. 6. TRANSFER OF FEDERAL RESERVE SURPLUSES.**

(a) *IN GENERAL.*—Section 7(b) of the Federal Reserve Act (12 U.S.C. 289(b)) is amended by adding at the end the following new paragraph:

“(4) *ADDITIONAL TRANSFERS TO COVER INTEREST PAYMENTS FOR FISCAL YEARS 2003 THROUGH 2007.*—

“(A) *IN GENERAL.*—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to subsection (a)(3), the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, such sums as are necessary to equal the net cost of section 19(b)(12) in each of the fiscal years 2003 through 2007.

“(B) *ALLOCATION BY FEDERAL RESERVE BOARD.*—Of the total amount required to be paid by the Federal reserve banks under subparagraph (A) for fiscal years 2003 through 2007, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

“(C) *REPLENISHMENT OF SURPLUS FUND PROHIBITED.*—During fiscal years 2003 through 2007, no Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under subparagraph (A).”

(b) *TECHNICAL AND CONFORMING AMENDMENT.*—Section 7(a) of the Federal Reserve Act (12 U.S.C. 289(a)) is amended by adding at the end the following new paragraph:

“(3) *PAYMENT TO TREASURY.*—During fiscal years 2003 through 2007, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the paid-in capital and surplus of the member banks of such bank shall be transferred to the Secretary of the Treasury for deposit in the general fund of the Treasury.”

**SEC. 7. RULE OF CONSTRUCTION.**

In the case of an escrow account maintained at a depository institution in connection with a real estate transaction—

(1) the absorption, by the depository institution, of expenses incidental to providing a normal banking service with respect to such escrow account;

(2) the forbearance, by the depository institution, from charging a fee for providing any such banking function; and

(3) any benefit which may accrue to the holder or the beneficiary of such escrow account as a result of an action of the depository institution described in subparagraph (1) or (2) or similar in nature to such action,

shall not be treated as the payment or receipt of interest for purposes of this Act and any provision of Public Law 93-100, the Federal Reserve Act, the Home Owners' Loan Act, or the Federal Deposit Insurance Act relating to the payment of interest on accounts or deposits at depository institutions, provided, however, that nothing herein shall be construed so as to require a depository institution that maintains an escrow account in connection with a real estate transaction to pay interest on such escrow account or to prohibit such institution from paying interest on such escrow account. Nor shall anything herein be construed to preempt the provisions of law of any State dealing with the payment of interest on escrow accounts maintained in connection with real estate transactions.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alabama (Mr. BACHUS) and the gentleman from Utah (Mr. MATHESON) each will control 20 minutes.

The Chair recognizes the gentleman from Alabama (Mr. BACHUS).

GENERAL LEAVE

Mr. BACHUS. Madam Speaker, I ask unanimous consent that all Members

may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 758.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BACHUS. Madam Speaker, I yield myself 3 minutes.

The legislation before us today, H.R. 758, the Business Checking Freedom Act, is a result of two things. In 1996, in a joint report called Streamlining Regulatory Requirements, the board of governors of the Federal Reserve, the Federal Deposit Insurance Corporation, the Comptroller of the Currency and the OTS determined that the 1933 statutory prohibition against paying of interest on business checking accounts no longer serves a public purpose.

Last year, President Bush joined many others in saying that small banks should be allowed to pay interest on their small business checking accounts. The reasons for this are basically two- or threefold.

One is, it is a free-market approach. More than that, though, there is an advantage now in the present prohibition against small banks. Large banks can offer complex sweep accounts or other sophisticated ways of offering implicit interest on checking accounts. Small banks simply do not have the resources to do this.

Secondly, large corporations today have several alternatives with what they can do with their funds to get interest. Small businesses, more often than not, have to rely on checking accounts and are denied equal treatment. So this will level the playing field between small banks and larger financial institutions. It will also level the playing field between small and large businesses.

I want to commend the gentleman from Pennsylvania (Mr. TOOMEY), the gentlewoman from New York (Mrs. KELLY), the cosponsors of this legislation. I want to particularly commend the gentleman from Ohio (Mr. OXLEY) for making this a priority.

In closing, I want to say that this legislation has passed the House twice in the 107th Congress. It has wide bipartisan support. It came out of the Committee on Financial Services on a large, one-sided vote. It has the endorsement of certain groups, of the Chamber of Commerce, NFIB, Independent Insurance Agents, American Community Banks, and I could go on and on.

Finally, I simply want to say there is another provision in this, and this offers the Federal Reserve the right to pay interest on sterile reserves. Recently, they testified before our committee that by being allowed to pay interest, it would both increase the amount of interest that small depositors could make or a depositor could make on their deposits in financial institutions, and it would also lower the cost of consumer credit.

Madam Speaker, I reserve the balance of my time.

Mr. MATHESON. Madam Speaker, I yield myself as much time as I may consume.

I rise today in support of H.R. 758, the Business Checking Freedom Act of 2003. By repealing the prohibition on the payment of interest on demand deposits, this bill will repeal the last vestige of interest rate controls enacted in the 1930s during the Depression. This prohibition long ago ceased to serve any useful purpose and has imposed unnecessary costs on banks and their business customers, particularly small banks and businesses that cannot afford sophisticated cash management products. The repeal of this prohibition is long overdue.

For institutions that cannot offer demand deposits, however, the bill includes a provision added as a result of an amendment that I cosponsored with the gentleman from California (Mr. ROYCE), the gentleman from Massachusetts (Mr. FRANK), the ranking member, and others that permits depository institutions to offer interest-bearing negotiable order of withdrawal, or NOW, accounts to their commercial customers. This provision will allow institutions such as industrial loan companies to offer the same type of interest-bearing account to business customers that they have long been able to offer to individuals, nonprofit organizations and public entities.

I think it is important to note this provision does not permit industrial companies to offer demand deposits. As has been the case since the enactment of the Competitive Banking Equality Act of 1987, ILCs would continue to be prohibited from offering demand deposits. Moreover, ILCs will continue to be subject to the same safety and soundness regulations by the FDIC and by their State regulators as under current law.

There is no indication that State regulators will allow their chartering authority to be used in an inappropriate manner. I note, for example, that State authorities in the past have rejected applications by some commercial companies to establish ILCs where there were concerns about how the charter would be used.

H.R. 758 also will permit the Federal Reserve Board to lower the reserves it currently requires on transaction accounts, such as demand deposits and NOW accounts, and to pay interest on the reserve balances that depository institutions are required to maintain. While providing these cost savings for banks, the bill will require the board to conduct an annual survey on a broad range of bank fees and services and to report to Congress on trends in the cost and availability of retail banking services. This survey will provide Congress the information we need to determine the extent to which retail customers receive the benefit from the cost savings we are creating with this bill.

H.R. 758 is a good, balanced bill that resulted in benefits for both banks and

their customers. I recommend passage of this bill.

I want to thank the gentleman from Alabama (Mr. BACHUS), the subcommittee chairman, and the gentleman from Vermont (Mr. SANDERS), the ranking member, for this bill. I want to recognize that the gentleman from Ohio (Mr. OXLEY), the chairman of the full committee, and the gentleman from Massachusetts (Mr. FRANK) for their support of this, as well; and I want to acknowledge the lead sponsors of this bill, which are the gentlewoman from New York (Mrs. KELLY), the gentlewoman from New York (Mrs. MALONEY), the gentlewoman from West Virginia (Mrs. CAPITO), the gentleman from California (Mr. SHERMAN), and the gentleman from Kansas (Mr. MOORE).

Madam Speaker, I reserve the balance of my time.

Mr. BACHUS. Madam Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Madam Speaker, it is with a great deal of reluctance that I rise in opposition to this bill. It contains many reasonable provisions, most importantly, the payment of interest on business checking, with my only concern on that point being that it does not immediately go into effect, but rather is put off for several years.

It also contains a very reasonable provision that interest be paid by the Fed on sterile reserves held by institutions.

But deeply embedded in this bill is a philosophical umbrage of very profound proportions. There is a small charter, as referred to by the gentleman from Utah, called the industrial loan corporation (ILC) charter. For the first time, the Congress is moving in the direction of giving this kind of charter the powers that make it the functional equivalent of banks. While the gentleman from Utah is correct that there is no effort to offer demand deposits, there is the authorization of business checking accounts which are their functional equivalent.

This particular charter countenances, and indeed there are a number today, the merger of commerce and banking; that is, nonfinancial institutions may own ILC charters. There is also no prohibition about new charters being granted, so new charters presumably can be offered on passage of this act.

What this does is move the American financial system in the direction of the Japanese financial system where they have financial firms intertwined with commercial enterprises and with obvious conflicts of interest.

I would alert this body to the fact that Chairman Greenspan and the Federal Reserve of the United States strongly have come out against this provision, and despite my request, there has not been allowance on the House floor for an amendment relating to this amendment to be proffered. I personally consider it a philosophically

difficult circumstance that no amendment was allowed to be offered and that this bill, instead, is being brought up under the Suspension Calendar with exceedingly brief notice.

Having stated that, the big issue is whether or not we want to change the nature of American finance, and I would again alert this body, Chairman Greenspan has written that this will change the structure of American banking in ways that would have allowed, for example, Enron or Tyco to own an ILC with expanded powers. In fact, Tyco does own an ILC. It would have allowed the prospect, with ILCs now becoming the functional equivalent of banks, for such companies to take over enormous sectors of the American banking community.

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I think this would be a mistake. I think this Congress ought to be deeply skeptical of this kind of circumstance, particularly given the history of the last few years in this country and the last several decades in other countries.

So despite the fact that this bill is reasonable in many respects, this particular provision outweighs the entirety of the bill and, in my view, should cause the bill to be defeated.

Mr. MATHESON. Mr. Speaker, I yield myself 1 minute to address a couple of the concerns that have been raised.

First of all, there is nothing in this bill that creates new authority to offer accounts to businesses. So while the Federal Reserve did suggest that we are altering the structure of banking in the United States, the institutions raised already can offer ILCs. Tyco already has one. So this bill talks about parity. It talks about banks and industrial corporations both offering interest on business checking accounts. That is all this bill does.

There is a broader discussion about the validity of the ILCs. That is not what this bill is about. It is about offering two entities to have parity in terms of offering the same service.

And let me mention one other point in this regard, and that is in terms of the concern about mixing of banking and commerce. FDIC Chairman Powell has stated that he does not have any safety or soundness concerns relating to this provision of the bill.

Mr. Speaker, I yield 4 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for his leadership and for yielding me this time.

Mr. Speaker, I rise in support of H.R. 758, the Business Checking Freedom Act, which the gentlewoman from New York (Mrs. KELLY) introduced and which I am pleased to cosponsor. My friend and colleague from New York was a former small business owner, and she has been a great advocate for small businesses and has worked through several Congresses and several twists and turns on this legislation. I congratulate her on her hard work.

While other speakers have described the bill, I will simply add that this legislation builds on the important modernization of financial services that Congress has worked on in recent years. This legislation lifts the prohibition on the payment of interest on business checking accounts after a 2-year phase-in. During the phase-in, banks may increase sweeps to interest paying accounts to four intervals per month.

The prohibition on interest on both consumer and business accounts was enacted during the Great Depression. At the time, it was enacted to limit competitive pressures to pay higher interests that were feared would lead to bank failures. Today, given the global nature of financial services, interstate banking, and advances in technology, interest payment limits only distort competition and force businesses to seek out alternative interest-bearing opportunities.

The prohibition on paying interest on consumer checking accounts was repealed by Congress more than 20 years ago and has not increased concern about safety and soundness. Today, the House takes an important step forward in offering this same benefit to the business community.

Importantly, this legislation will disproportionately benefit small businesses. Small businesses must keep money in checking accounts to meet payrolls and pay expenses. They are less likely to have complex financial arrangements that allow them to get around interest restrictions. From restaurants in Astoria, Queens, to high-tech startups in Manhattan, this legislation will benefit small businesses across New York City, State, and the Nation.

The legislation also allows the Federal Reserve to pay interest on sterile reserves. These are reserves private banks hold at the Federal Reserve which the Fed can use as a tool of monetary policy. This provision is endorsed by Federal Reserve Chairman Alan Greenspan.

Mr. Speaker, I want to thank the gentleman from Utah (Mr. MATHESON), certainly the gentleman from Pennsylvania (Mr. TOOMEY), and the gentleman from Pennsylvania (Mr. KANJORSKI), and certainly the gentleman from Massachusetts (Mr. FRANK) for his leadership on these issues.

Finally, I want to remind my colleagues that this legislation passed the House by a voice vote in two different forms last Congress, and it is my hope that this legislation is enacted this year and we continue the important work of modernizing financial services.

Mr. BACHUS. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY), the sponsor of the bill.

Mrs. KELLY. Mr. Speaker, I want to thank the gentleman from Alabama for both yielding me this time and for his work to move this legislation forward. In addition, I want to thank the gentleman from Ohio (Mr. OXLEY) for his

support, as well as the gentleman from Pennsylvania (Mr. TOOMEY) for the contribution that he has made to this legislation with his bill H.R. 859, which was merged into this bill during committee consideration.

My bill addresses an issue which has been pending before Congress for some time now. This body actually passed a similar measure by voice vote not once but twice during the 107th Congress, but the job is still not done. So we come to the floor once again with a strong hope that the enactment of this bill will finally be realized this Congress. The legislation will go a long way in helping our Main Street banks and small businesses which are so essential to our communities.

The Business Checking Freedom Act contains a number of important provisions. First, it repeals the 70-year-old law prohibiting banks from paying interest on business checking accounts after a transition period. While I believe it should be repealed, I believe a proper transition period is critical. The 2-year transition period contained in the bill is certainly better than the 1-year transition period which was in the original bill, although my preference is for an even longer period to allow the banks and businesses to disengage from each other.

Nevertheless, I believe it is time to move forward with this legislation. The legislation also allows banks to increase money market deposits and savings account sweeps from the current 6 to 24 times a month. This gives the banks an increase in their sweep activities, enabling them to sweep every night, increasing the interest which businesses can make on their accounts.

The bill also gives the Federal Reserve the opportunity to pay interest on reserves that the banks keep with the Federal Reserve System, and gives the Federal Reserve the additional flexibility to lower reserve requirements. This will give the Federal Reserve greater control at maintaining reserves at a specific and consistent level. That will help foster healthy reserve balances, thereby reducing the potential for volatility within the Federal funds rate and protecting the Federal Reserve's ability to conduct monetary policy.

Quite simply, this legislation is about creating new and broader market options. We allow banks to pay interest on business checking accounts, we allow banks to increase sweep activities, and we allow the Fed to pay interest on the sterile reserves that all banks are required to keep with them. We also allow the Fed to lower reserve requirements. We do not require or mandate anything. This way we can allow the market to create change and not the government.

I again thank the gentleman from Ohio for his strong leadership on this issue and for the swift consideration of this legislation, and I ask my colleagues on both sides of the aisle to join me in strong support for this commonsense bipartisan legislation.

Mr. MATHESON. Mr. Speaker, I reserve the balance of my time.

Mr. BACHUS. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. TOOMEY), who, along with the gentlewoman from New York (Mrs. KELLY), is one of the two primary cosponsors of the legislation and both drafted legislation.

(Mr. TOOMEY asked and was given permission to revise and extend his remarks.)

Mr. TOOMEY. Mr. Speaker, I thank the gentleman from Alabama (Mr. BACHUS) and appreciate all his help on this legislation as well as the time he has yielded to me. I would also like to thank (Mr. KANJORSKI), an original cosponsor of my bill, which is part of this one, as well as the gentlewoman from New York (Mrs. KELLY) for her work.

Mr. LEACH. Mr. Speaker, will the gentleman yield?

Mr. TOOMEY. Mr. Speaker, I yield to the gentleman from Iowa, with whom I actually have a disagreement on this particular issue, but I have enormous respect for his opinion and would like to give him an opportunity to rebut a point made earlier.

Mr. LEACH. Mr. Speaker, I appreciate this. And let me say that the brunt of this bill is a wonderfully thoughtful approach, and I congratulate the gentleman and the gentlewoman from New York (Mrs. KELLY) on this.

I would only come back to the one provision which I would like to have changed, and that is the industrial loan corporation provision, and to point out to this body that only a handful of States are authorized, such as the State of Utah, to have industrial loan corporations. They are not trivial institutions. In the State of Utah, for example, their assets are double that of banks, S&Ls and credit unions combined.

If this bill passes with this provision and becomes law, the vast majority of States will see deposits swept from their States to this handful of States. That alone is a philosophical circumstance that in my mind should lead people to raise serious doubts about this particular provision of this particular bill.

Mr. TOOMEY. Mr. Speaker, reclaiming the balance of my time, I would just say that I appreciate the thoughtful remarks of the gentleman from Iowa but respectfully disagree, and I think that the merits of this bill are really quite strong.

In fact, the combination of the bill that I introduced, H.R. 859, and the bill that the gentlewoman from New York (Mrs. KELLY) introduced, H.R. 758, really are a modernizing effort here. It is going to help small businesses and their employees. It is going to help small banks and their employees and their customers. It is pro-free market legislation. It is bipartisan. It is really a commonsense repeal.

Frankly, it was hard for me to believe when I first discovered that we

have a law in the United States of America that says it is illegal for a bank to pay interest on a business checking account. I thought that was the business banks were in, as a matter of fact. But in fact it is hard to repeal a bad law in this country, and we have had this one on the books for about 70 years. Its repeal is long overdue. Today is our chance to do what we can do in the House to abolish this bill.

Now, if it goes into effect and is signed into law, the actual repeal happens 2 years from now. I would prefer it happen sooner than that, but this is the compromise that was arrived at. So that is certainly better than continuing with the legislation. But I would like to be precise about the net effect of this. Because it is not precisely that businesses will now start earning interest which heretofore they have not. In fact, what happens now is that banks have found these cumbersome and very inefficient ways to circumvent this prohibition. So they pay the economic equivalent of most of the interest that a business would earn, but because of the expense of administering these bureaucratic programs, the businesses do not get the full value of the deposits they have.

At the end of the day, we should not force banks and their customers to go through a lot of expensive and inefficient and economically unproductive hurdles to avoid a regulation that has no merit in the first place. So that is why we are here, to repeal this.

Mr. Speaker, I thank everybody who has been involved in supporting this legislation, and I urge my colleagues to vote "yes."

H.R. 758 contains a provision, section 7, entitled Rule of Construction, regarding escrow accounts maintained for purposes of settling real estate transactions. This provision is similar to section 7 of H.R. 1009, the Business Checking Freedom Act of 2002, a bill I sponsored that the House passed last year. Section 7 of H.R. 758 makes clear that the current legal treatment of certain services and benefits provided by banks in lieu of interest in connection with such escrow accounts remains the same. There are some minor changes to this section from section 7 of H.R. 1009, which clarify that the provision does not prohibit or require the payment of interest on such accounts and that it does not affect State laws regarding the payment of interest on escrow accounts. I understand the latter is intended to ensure that State laws governing mortgage servicing escrow accounts for the monthly collection and payment of taxes and insurance are maintained. In brief, section 7 does not alter the current legal definition of interest or the legal treatment of real estate settlement escrow transactions.

Under section 7, current Federal legal standards, including regulatory interpretations, regarding the definition of interest on deposits will continue to stand. For example, the Federal Reserve's Regulation Q currently provides that services and benefits can be given by banks in lieu of interest to depositors and that the provision or the receipt of such services and benefits does not constitute interest. This has been the Federal Reserve's consistent

regulatory and interpretive view for decades. For example, a Federal Reserve staff opinion in 1978 stated that the "absorption or reduction" of banking service changes did not constitute the payment of interest (Fed. Res. Bd. Staff Op., October 27, 1978), a view also reflected in a 1964 Fed. interpretative letter (1964 Fed. Res. Interp., July 17, 1964). Under these regulatory principles, title companies and agents receive bank services, such as free printed checks, overnight float and safe deposit and night depository facilities, armored car services, as well as low-interest loans, that help defray their cost of maintaining real estate settlement escrows, ultimately lowering the cost of these services to the public. Such accounts often times last only a few days, the time necessary for settlement payments and other disbursements to be made after the closing of a real estate transaction.

In our Nation's highly developed financial system, Federal banking law and regulations have operated to facilitate the smooth and efficient flow of real estate transactions and promoted American homeownership. I am optimistic that these services will continue to be provided in the current efficient manner when H.R. 758 becomes law.

Mr. MATHESON. Mr. Speaker, I reserve the balance of my time.

Mr. BACHUS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROYCE) to speak in favor of the legislation.

Mr. ROYCE. Mr. Speaker, I rise in support of this bill, which is called the Business Checking Freedom Act; and I think giving banks the ability to pay interest on business checking accounts is a good concept. It has been endorsed by the President of the United States as part of his small business agenda, but it has also been endorsed by Federal regulators.

Federal regulators have long supported the effort to allow banks to offer interest on demand accounts, and this particular measure enjoys a broad base of support in the industry, including the National Federation of Independent Businesses, America's Community Bankers, the National Association of Federal Credit Unions, the Association of Financial Professionals, and the Financial Services Roundtable.

The inability of depository institutions to pay interest on business accounts, I think, hurts all sectors of the economy; and I think it decreases the overall competitiveness of the American markets. This legislation gives small businesses the jump-start that they need to create new jobs and improve the economy while removing burdensome regulations from small banks and, basically, while allowing the market to work.

In my view, this legislation is solely about business checking. In my view, it is not about the legal status of ILCs. I think contrary to the concerns raised by the Federal Reserve, the FDIC Chairman Don Powell, recently testified before our committee, testified that there are no safety and soundness concerns with this amendment and that the FDIC has no objection to an authorization for ILCs, or industrial

loan banks, to pay interest on NOW accounts held by businesses.

Mr. Speaker, I just thought I would quote Chairman Powell. He said, "The FDIC would not object to paying interest by these financial institutions on NOW accounts held by businesses. We do not really perceive those any different from any other business accounts, and we do not see it as a safety and soundness issue."

Further, with respect to any concern regarding the relationship between industrial loan banks and the few commercial companies that own them in four States, Chairman Powell stated in a speech to the American Bankers Association on October 8, 2002, that "Congress has given us good tools to manage the relationship between parents and insured subsidiaries."

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"Indeed, the FDIC manages these relationships every day in the industrial loan company model with little or no risk to the deposit insurance funds, and no subsidy transferred to the nonbank parent."

Again, in my view, this bill is about business checking for depository institutions, not the legal status of ILCs. I want to commend the authors of this legislation, the gentlewoman from New York (Mrs. KELLY) and the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. MATHESON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a piece of legislation that is overdue. The notion of eliminating interest on business checking accounts is something that seems like common sense. I was a small businessman before I came to Congress, and it never seemed to make sense to me is that this prohibition existed. We are talking about removing some inefficiencies that exist in our financial marketplace. That is why this legislation has such strong bipartisan support. I encourage Members to pass this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. BACHUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, I want to address the issue of what this bill does and what it does not do. The bill authorizes the Federal Reserve to pay interest on sterile reserves, and as has been testified before our committee, that should result in depositors in banks, thrifts, credit unions, receiving higher interest on their deposits. It should also result in lower interest rates for consumers.

The second thing that this legislation does, it allows banks to pay interest on accounts established by businesses in those banks. It does not authorize any new types of accounts. It does not in any way change who can own a bank and who cannot own a bank. It does not in any way allow these industrial loan companies to offer accounts which they are prohibited from offering now. And they are

prohibited at the present time from offering demand deposit checking accounts; there is nothing in this legislation that allows them to offer those accounts.

The Bank Holding Company Act establishes the rules for who can own a bank and who cannot. We do not amend that legislation in any regard. The bill does not, with respect to the gentleman from Iowa, authorize Wal-Mart, WorldCom, Enron or any other company to own a bank or expand the authority that they might have under existing law. They already have authority under existing laws and under the Bank Holding Company Act, which specifically permits them to own certain limited-purpose banks, including credit card banks, industrial loan banks, grandfathered unitary thrifts, grandfathered nonbank banks, and trust banks. That is the present law.

There is nothing in this legislation that expands their right to own an institution. So WorldCom presently, Wal-Mart presently, they could own an industrial loan company or a unitary thrift, or some of these grandfathered institutions. We do not expand that authority at all.

The gentleman from Iowa (Mr. LEACH) has a fear, first of all, that we are mixing banking and commerce. Well, we are already mixing them. Present law already allows them to mix. We do not expand that in any way under this legislation.

Mr. Speaker, we addressed the amendments of the gentleman from Iowa (Mr. LEACH); he offered two amendments in committee. And I have great respect for the former chairman of the committee. He offered two amendments to strip the ILC language from the bill. They were overwhelmingly rejected, 55 nays, 8 yeses; the other amendment, 55 nays, 8 yeses. The gentleman from Iowa (Mr. LEACH) has legitimate concern with certain types of commerce and financial institutions and the mixing of them. However, this legislation does not do that. That will have to be addressed in the Bank Holding Act.

Mr. LEACH. Mr. Speaker, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Iowa.

Mr. LEACH. Mr. Speaker, I have great respect for the gentleman, and he is right about what companies can now do. However, what is not fully described is that they will now be able to buy a charter with an enhanced set of powers, which has not been offered before. It is the enhanced power of this obscure charter that makes this legislation difficult, and that is my concern.

Mr. BACHUS. Mr. Speaker, does the gentleman agree that an industrial loan company can already offer a NOW account?

Mr. LEACH. If the gentleman will continue to yield, for the first time, they will be allowed to offer business checking accounts, which has never



been done before. Chairman Greenspan has noted this will cause an ILC to become the functional equivalent of a bank, and such charters will only be authorized in a handful of States, and thus will cause the movement of assets to those States.

Mr. BACHUS. Mr. Speaker, what Chairman Greenspan has said is, these institutions are not regulated by the Federal Reserve. There is nothing in this that takes any regulation or adds any regulation.

Mr. LEACH. That is true. My amendment did not suggest that it be regulated by the Federal Reserve, although other amendments I offered did suggest that.

Mr. BACHUS. Mr. Speaker, reclaiming my time, this does not authorize them to offer any accounts which they presently cannot offer nor expand the rights of corporations to own these industrial companies.

Mr. GONZALEZ. Mr. Speaker, as a co-sponsor of H.R. 758, I want to express my strong support for this legislation, the Business Checking Freedom Act of 2003, legislation designed to help small businesses obtain a better return on their checking account deposits and to permit banks to receive interest on the reserves they must maintain at Federal Reserve Banks. The House has passed similar legislation in the past few years and it should take the same action regarding this bill.

In addition to expressing my support for the bill as a whole, I also want to express specific support for section 7, entitled Rule of Construction, which will help maintain the legal status quo of the treatment of real estate escrow accounts maintained for the purpose of settling real estate transactions. These accounts, which often last only a matter of days, are usually established by title companies and their agents to collect and disburse funds after the closing of a real estate transaction. This Rule of Construction provision, similar to language in H.R. 1009 passed by the House in April 2002, ensures that neither this legislation nor other laws will affect the current regulatory treatment of certain services and benefits provided by banks in lieu of interest on escrow accounts maintained by title insurance companies and title agents in connection with real estate closing transactions. The inclusion of section 7 in H.R. 758 preserves beneficial financial practices for escrow accounts at the same time that we are eliminating an outdated prohibition against the payment of interest on business checking accounts.

As a co-sponsor of this legislation, I wholeheartedly endorse and support its passage.

Mr. BACHUS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on the motion offered by the gentleman from Alabama (Mr. BACHUS) that the House suspend the rules and pass the bill, H.R. 758, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## COCONINO AND TONTO NATIONAL FOREST LAND EXCHANGE ACT

Mr. RENZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 622) to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes.

The Clerk read as follows:

H.R. 622

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Certain private lands adjacent to the Montezuma Castle National Monument in Yavapai County, Arizona, are desirable for Federal acquisition to protect important riparian values along Beaver Creek and the scenic backdrop for the National Monument.

(2) Certain other inholdings in the Coconino National Forest are desirable for Federal acquisition to protect important public values near Double Cabin Park.

(3) Approximately 108 acres of land within the Tonto National Forest, northeast of Payson, Arizona, are currently occupied by 45 residential cabins under special use permits from the Secretary of Agriculture, and have been so occupied since the mid-1950s, rendering such lands of limited use and enjoyment potential for the general public. Such lands are, therefore, appropriate for transfer to the cabin owners in exchange for lands that will have higher public use values.

(4) In return for the privatization of such encumbered lands the Secretary of Agriculture has been offered approximately 495 acres of non-Federal land (known as the Q Ranch) within the Tonto National Forest, east of Young, Arizona, in an area where the Secretary has completed previous land exchanges to consolidate public ownership of National Forest lands.

(5) The acquisition of the Q Ranch non-Federal lands by the Secretary will greatly increase National Forest management efficiency and promote public access, use, and enjoyment of the area and surrounding National Forest System lands.

(b) PURPOSE.—The purpose of this Act is to authorize, direct, facilitate, and expedite the consummation of the land exchanges set forth herein in accordance with the terms and conditions of this Act.

### SEC. 2. DEFINITIONS.

As used in this Act:

(1) DPSHA.—The term "DPSHA" means the Diamond Point Summer Homes Association, a nonprofit corporation in the State of Arizona.

(2) FEDERAL LAND.—The term "Federal land" means land to be conveyed into non-Federal ownership under this Act.

(3) FLPMA.—The term "FLPMA" means the Federal Land Policy Management Act of 1976.

(4) MCJV.—The term "MCJV" means the Montezuma Castle Land Exchange Joint Venture Partnership, an Arizona Partnership.

(5) NON-FEDERAL LAND.—The term "non-Federal land" means land to be conveyed to the Secretary of Agriculture under this Act.

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, unless otherwise specified.

### SEC. 3. MONTEZUMA CASTLE LAND EXCHANGE.

(a) LAND EXCHANGE.—Upon receipt of a binding offer from MCJV to convey title acceptable to the Secretary to the land described in subsection (b), the Secretary shall convey to MCJV all right, title, and interest

of the United States in and to the Federal land described in subsection (c).

(b) NON-FEDERAL.—The land described in this subsection is the following:

(1) The approximately 157 acres of land adjacent to the Montezuma Castle National Monument, as generally depicted on the map entitled "Montezuma Castle Contiguous Lands", dated May 2002.

(2) Certain private land within the Coconino National Forest, Arizona, comprising approximately 108 acres, as generally depicted on the map entitled "Double Cabin Park Lands", dated September 2002.

(c) FEDERAL LAND.—The Federal land described in this subsection is the approximately 222 acres in the Tonto National Forest, Arizona, and surveyed as Lots 3, 4, 8, 9, 10, 11, 16, 17, and Tract 40 in section 32, Township 11 North, Range 10 East, Gila and Salt River Meridian, Arizona.

(d) EQUAL VALUE EXCHANGE.—The values of the non-Federal and Federal land directed to be exchanged under this section shall be equal or equalized as determined by the Secretary through an appraisal performed by a qualified appraiser mutually agreed to by the Secretary and MCJV and performed in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions (U.S. Department of Justice, December 2000), and section 206(d) of the FLPMA (43 U.S.C. 1716(d)). If the values are not equal, the Secretary shall delete Federal lots from the conveyance to MCJV in the following order and priority, as necessary, until the values of Federal and non-Federal land are within the 25 percent cash equalization limit of 206(b) of FLPMA:

- (1) Lot 3.
- (2) Lot 4.
- (3) Lot 9.
- (4) Lot 10.
- (5) Lot 11.
- (6) Lot 8.

(e) CASH EQUALIZATION.—Any difference in value remaining after compliance with subsection (d) shall be equalized by the payment of cash to the Secretary or MCJV, as the circumstances dictate, in accordance with section 206(b) of FLPMA (43 U.S.C. 1716(b)). Public Law 90-171 (16 U.S.C. 484a; commonly known as the "Sisk Act") shall, without further appropriation, apply to any cash equalization payment received by the United States under this section.

### SEC. 4. DIAMOND POINT—Q RANCH LAND EXCHANGE.

(a) IN GENERAL.—Upon receipt of a binding offer from DPSHA to convey title acceptable to the Secretary to the land described in subsection (b), the Secretary shall convey to DPSHA all right, title, and interest of the United States in and to the land described in subsection (c).

(b) NON-FEDERAL LAND.—The land described in this subsection is the approximately 495 acres of non-Federal land generally depicted on the map entitled "Diamond Point Exchange—Q Ranch Non-Federal Lands", dated May 2002.

(c) FEDERAL LAND.—The Federal land described in this subsection is the approximately 108 acres northeast of Payson, Arizona, as generally depicted on a map entitled "Diamond Point Exchange—Federal Land", dated May 2002.

(d) EQUAL VALUE EXCHANGE.—The values of the non-Federal and Federal land directed to be exchanged under this section shall be equal or equalized as determined by the Secretary through an appraisal performed by a qualified appraiser mutually agreed to by the Secretary and DPSHA and in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions (U.S. Department of Justice, December 2000), and section 206(d) of FLPMA (43 U.S.C. 1716(d)). If the